

## **REMARKS**

### *Claim Status*

Claims 1-31 are pending.

Claims 1-31 are subject to restriction and/or election requirement.

Claims 1, 2, and 4 are provisionally elected.

Claims 3 and 5-31 are cancelled without prejudice.

### ***ELECTION/RESTRICTIONS***

The examiner has required restriction to one of the following inventions:

GROUP I: Claims 1-24, drawn to *Methods of enhancing ocular accommodation*;

GROUP II: Claims 25-31, drawn to *A system for measuring corneal topography*.

Applicant hereby elects GROUP I: Claims 1-24. Claims 25-31 are cancelled without prejudice.

The examiner submits that the application contains claims directed to six patentably distinct species labeled *A-F* on page 4 of the Office communication. The examiner further submits that no generic claim is present in the application.

Applicant provisionally elects claims 1, 2, and 4. Applicant respectfully traverses the species election requirement as set forth in the Office communication. In the first instance, the examiner has failed to categorize (or even mention) the species of *surface ablation* and *intrastromal ablation*, respectively, as recited in claims 3 and 4. Applicant submits that these should be considered as patentably distinct species if the examiner intends to maintain that *A-F* are patentably distinct species.

Applicant further respectfully submits that claim 1 is generic to claims 2-24. A close reading of applicant's specification will indicate that all of the examiner's alleged species are

consistently referred to either as *forms*, *alternative techniques*, or *alternative aspects* of the limitation of [making] *a pre-determined biomechanical alteration of a subject's corneal structure outside of an optical zone of the cornea* recited in applicant's single claimed embodiment of *a method of enhancing ocular accommodation*. Nowhere does applicant disclose or suggest that these various *forms*, *techniques*, or *aspects* are different embodiments of the invention. As such, they should not be subject to a species restriction. The examiner's reconsideration is respectfully requested.

*Conclusion*

Applicant believes that this response is timely and that no extension of time is necessary under 37 C.F.R. §1.136(a). In the event of error, Applicant hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 50-1546.

Please direct any questions or comments to William Greener at (607) 330-4012.

Respectfully submitted,  
BOND, SCHOENECK & KING, PLLC

Date: May 4, 2009



\_\_\_\_\_  
William Greener  
Registration No. 38,165  
BOND, SCHOENECK & KING, PLLC  
10 Brown Rd., Suite 201  
Ithaca, NY 14850-1248